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SUBJECT: HCMC: WILL LAND LAW CURB SPECULATION?

REF: Hanoi 885

¶11. (SBU) SUMMARY: Vietnam's new land law is intended to stem rampant land speculation, which has been exacerbated by corruption and a lack of other investment alternatives. Domestic and foreign investors hope the new law and related decrees will make the market more transparent and stable, and make more land available. HCMC officials hope to raise funds for infrastructure investment by reclaiming and auctioning unused land. However, the new system still is based on the idea that government, not the market, controls land allocation. END SUMMARY.

¶12. (SBU) The Vietnamese government officially owns all land. Land use rights, in the forms of long-term leases or certificates, are allocated by the state as a legal alternative to a land title (reftel.) In HCMC and surrounding areas, artificially controlled land allocation, corruption, and lack of viable investment opportunities have fueled rampant speculation. According to Investconsult Group, a local land and investment consultant, government corruption sparked the speculative boom because real estate is an effective and low profile means of laundering illicit funds. This practice is facilitated by the GVN's restrictive administrative mechanisms for allocating land. Land cannot be bought and purchased on the open market. Instead, provincial authorities zone land for particular categories of use (e.g. residential, industrial, or agricultural) and administratively allocate parcels to developers for specific projects. As a result, the state controls the supply of land available for development. A private land use rights holder, for example a farmer, can transfer his fields to another farmer but cannot sell his land to a housing developer.

¶13. (SBU) As both economic growth and official corruption accelerated, the opacity and profitability of the real estate market became attractive for government officials and agencies looking to park illicit funds. Officials legitimized these funds by purchasing land, often through a third party, and through projects associated with the land allocations, such as apartment complexes, factories, or industrial centers. Instead of developing these putative projects, the land-use rights were often held or re-sold with the proceeds emerging clean.

¶14. (SBU) The lack of alternative investment mechanisms in Vietnam is a contributing factor to land speculation, according to Green City, an American-owned real estate developer. Financial services are still limited, and Vietnamese are reluctant to place money into banks, preferring to invest in more tangible assets. Investors commonly put capital into land. The end result is an increasing number of investor/speculators have purchased land allocated administratively for specific projects with no intention of development. With the GVN controlling land allocation, land was perceived to be in short supply, further driving up prices.

¶15. (SBU) The combination of artificially-controlled administrative supply, corruption, lack of alternative investment mechanisms, and high turnover fueled rapid price increases and a highly speculative market. According to ACB Real Estate (ACBR), the HCMC People's Committee issued two decisions in 2002 to restrict certain land transfers and reserved the right to seize land that was not being developed. This had the effect of freezing the real estate market in HCMC. At the same time, the GVN was addressing the land issue at the national level, passing a comprehensive new Land Law in 2003 that went into effect on July 1, 2004. Five implementing decrees for the new law have been promulgated to date, with seven more to be issued by July 2005. The law and related decrees attempt to curb speculation by removing unlimited periods of "pending planning" by land use right-holders, delineating situations in which the GVN can reclaim land, and by issuing nationwide land use right certificates. (Hanoi Reftel reports comprehensively on the new law.)

¶16. (SBU) According to the HCMC Department of Natural Resources and Environment (DoNRE), the land law requires all cities and provinces to establish land resource centers, which will provide potential investors with information on available land by category of use. Part of the appeal of the law for HCMC is the expectation that DoNRE will be able to reclaim land that has not been developed according to the original allocation and will be able to re-sell the land use rights at auction. Funds generated are

expected to be used for infrastructure development. HCMC DoNRE is currently evaluating all land allocated for development and reclaiming "non-performing" land for the land use center. Tuoi Tre, a leading Vietnamese newspaper, cited anywhere from 20 to 30 percent of land in HCMC is thought to be non-performing, and 400 projects are being investigated for delayed implementation. Even when DoNRE initiates auctions investors/developers will still need a reason to be authorized purchase of land, continuing the allocation system but with a more market-based pricing mechanism. Participation in the DoNRE auctions will be limited to Vietnamese nationals (including overseas Vietnamese). DoNRE claims this restriction is necessary because available land is insufficient to meet demand.

¶17. (SBU) Local developers believe that the new land law will result in investors shifting from undeveloped land toward apartments and residences. Law firm Johnson, Stokes and Master notes that as soon as new residential projects are announced, developers receive inquiries and down payments on units before prices have been set or ground broken. Even government officials are snapping up apartments and re-selling or leasing long-term for profit. According to Tuoi Tre, a top priority for HCMC from 2003 through 2005 is the construction of 30,000 additional apartment units.

¶18. (SBU) COMMENT: A new land law was needed and has been welcomed by local developers. However, the success of the new law in curbing speculation remains questionable. The law does not address the root causes of the speculative boom: administrative as opposed to market-based allocation of land; lack of investment alternatives and the need to launder illicit gains. The market has slowed considerably due to future uncertainties over ownership and government authority to reallocate "non-performing" land. END COMMENT.

WINNICK